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Supreme Court of the United States

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MARY DOE,

*Petitioner,*

v.

ARTHUR MANN, *et al.*,

*Respondents.*

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ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI

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## QUESTION PRESENTED

Whether Public Law 280 ("PL-280"), 18 U.S.C. § 1162 & 28 U.S.C. § 1360, deprives Indian tribes in PL-280 States of their exclusive jurisdiction to conduct involuntary child dependency proceedings involving Indian children domiciled on the reservation, notwithstanding the Indian Child Welfare Act of 1978 ("ICWA"), 25 U.S.C. §§ 1901-1963.

**PARTIES TO THE PROCEEDINGS**

The petitioner is Mary Doe (the plaintiff below). The respondents (defendants below) are: Arthur Mann, in his official capacity; Robert L. Crone, Jr., in his official capacity; Lake County Superior Court; Department of Social Services, Lake County; Mr. D.; and Mrs. D.

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Petitioner Mary Doe respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

### **OPINIONS BELOW**

The opinion of the court of appeals (App. 1a-70a) is reported at 415 F.3d 1038. The district court's opinion (App. 71a-97a) is reported at 285 F. Supp. 2d 1229.

### **JURISDICTION**

The court of appeals entered its judgment on July 19, 2005. The court denied a petition for rehearing en banc on September 19, 2005. App. 98a-99a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

### **STATUTORY PROVISIONS INVOLVED**

The Indian Child Welfare Act ("ICWA"), 25 U.S.C. §§ 1901-1963, provides in relevant part:

#### **§ 1901. Congressional findings**

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

...

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are

eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions;

...

### **§ 1903. Definitions**

For the purposes of this chapter, except as may be specifically provided otherwise, the term--

(1) "child custody proceeding" shall mean and include--

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

...

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 1606 of Title 43;

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

...

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of